



The Attorney General of Texas

September 11, 1980

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Honorable Hamp Atkinson, Chairman
Committee on Public Education
House of Representatives
Austin, Texas

Opinion No. MW-239

Re: Length of school term as the
term is used in section 21.301,
Education Code

Dear Chairman Atkinson:

You have requested our opinion regarding the meaning of "current term" as used in section 21.301(a) of the Education Code. That statute provides:

The board of trustees of any school district may suspend from the privileges of the schools any pupil found guilty of incorrigible conduct, but such suspension shall not extend beyond the current term of the school.

The State Board of Education has defined "school term" for accounting purposes as:

that period of time a school district is scheduled to be in operation including inservice training and classroom instruction. The period begins with the first day of scheduled inservice training as indicated in the school calendar and ends with the beginning of the subsequent school term.

On August 7, 1978, the Commissioner of Education rendered a decision which supports the application of the State Board's definition to section 21.301(a). In that case, Abbey v. Hardin-Jefferson Independent School Dist., Docket No. 77-R124, State Commissioner of Education, August 7, 1978, a student had been suspended in October, 1977, for the remainder of the school year. The student contended, inter alia, that such a suspension contravened the Education Code. The Commissioner, while holding that the particular suspension was improper, nevertheless stated:

The ordinary and usual interpretation by this agency of the word "term", in section 21.301, Texas Education Code, is school year. The word "term" does not refer to either a semester or a quarter in that context. Id at 4.

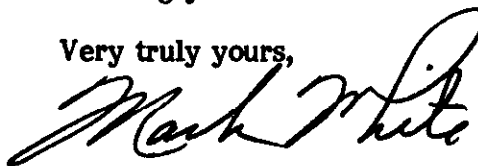
Accordingly, the Commissioner held that, under section 21.301, a school district was entitled to suspend a student "for the remainder of the school year." Id at 4.

It is well established that an administrative construction of an ambiguous statute should be followed unless it is clearly unreasonable. Calvert v. Kadane, 427 S.W. 2d 605 (Tex. 1968); Thompson v. Calvert, 301 S.W. 2d 496 (Tex. Civ. App. - Austin 1957, no writ). Although the 66th Legislature, which convened five months subsequent to the Commissioner's decision in Abbey, extensively amended section 21.301, it did not alter the Commissioner's construction of "current term." As a result, we must conclude that, for purposes of section 21.301(a) of the Education Code, "current term" means the period beginning with the first day of scheduled inservice training and ending with the first day of scheduled inservice training the following year.

S U M M A R Y

For purposes of section 21.301(a) of the Education Code, "current term" means the period beginning with the first day of scheduled inservice training and ending with the first day of scheduled inservice training the following year.

Very truly yours,



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